

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

DIRECTV, INC.,

Plaintiff,

v.

CIVIL ACTION NO. 5:04-0211

MITCHELL BURGESS,

Defendant.

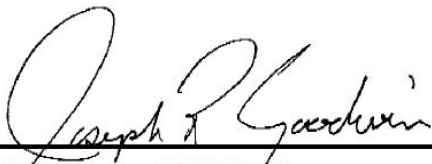
MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable R. Clarke VanDervort, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that the court deny the plaintiff's motion for summary judgment. Neither party has filed objections to the Magistrate Judge's findings and recommendation.

Accordingly, the court accepts and incorporates herein the findings and recommendation of the Magistrate Judge. The court **DENIES** the plaintiff's motion for summary judgment [Docket 13].

The court **DIRECTS** the Clerk to send a certified copy of this Order to Magistrate Judge VanDervort, counsel of record, and any unrepresented parties.

ENTER: September 21, 2005



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE